

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:16 cr 41**

UNITED STATES OF AMERICA

Vs.

DONALD KORNSE.

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ORDER

THIS MATTER came before the undersigned on November 9, 2016 pursuant to an oral motion made by Fredilyn Sison, counsel for Defendant, oncerning the terms and conditions of presentence release (#59) that was entered by the undersigned on November 4, 2016. At the call of this matter on for hearing it appeared that Fredilyn Sison was present and she waived the presence of Defendant as provided by the Federal Rules of Criminal Procedure. The Government was present through AUSA David Thorneloe.

On November 4, 2016, the undersigned entered an Order releasing Defendant on terms and conditions of presentence release (#59) and (#60). Those conditions included condition (8)(t) which required that Defendant submit to location monitoring and location monitoring technology. In her request, Ms. Sison stated that after the location monitoring ankle bracelet had been placed upon Defendant, the Defendant's leg had swollen and the bracelet was now causing pain and suffering

to Defendant. Ms. Sison introduced into evidence photographs of the monitoring bracelet that is around Defendant's ankle, which included a photograph showing that only a fingertip could be placed between Defendant's leg and the location monitoring strap. Ms. Sison further advised the Court that when the Defendant and she requested that the location monitoring strap be loosened, the probation officer had advised Ms. Sison she would have to obtain a court order. In response, Mr. Thorneloe stated that when the strap had been placed upon Defendant, it was fitting properly, but acknowledged that perhaps Defendant's leg may have swollen due to Defendant's physical disabilities since the strap was placed upon Defendant.

The photographs show that the strap has several holes that appear to be 1/8th to 1/16th inch apart. The undersigned will direct that the probation officer shall extend the strap by either one to two holes so it will not be painful to Defendant.

ORDER

IT IS, THEREFORE, ORDERED that the oral motion of Defendant is **ALLOWED** and it is **ORDERED** that the United States Probation Officer or one of his colleagues he assigns shall immediately go to the home of Defendant and shall modify and lengthen the strap either one or two holes to provide relief for Defendant.

Signed: November 14, 2016



Dennis L. Howell
United States Magistrate Judge

